

REMARKS

Entry of the foregoing and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.111 and in light of the remarks which follow, are respectfully requested.

By the above amendments, claim 25 has been amended to recite that the compound of formula (III) is a monofunctional compound. Claims 25, 29, 32, 33 and 37-40 have been amended for readability and/or grammatical purposes. New claim 48 has been added which depends from claim 25, and recites that u is an integer greater than 1.

Claim 25 has been revised by removing underlining from the variables u , n and m . Such revisions have been made without strikethrough and underlining to avoid any confusion as to the scope of the amended subject matter.

In the Official Action, claim 25 stands objected to for reciting the term "multifunctional" in connection with the compound of formula (III). Such objection is moot in view of the above amendments, in which claim 25 has been amended to recite that the compound of formula (III) is a monofunctional compound. Accordingly, withdrawal of the objection is respectfully requested.

Claims 25-47 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 24-37 and 39-46 of copending Application No. 10/498,255. In view of the discussion at section 4 of the Official Action, it appears that the Examiner may have intended to make such obviousness-type double patenting rejection in view of U.S. Patent Application Publication No. 2002/0115771 (*Schueler et al*). Applicants respectfully request the

Examiner to hold this rejection in abeyance until the present application is held to otherwise be in condition for allowance.

Claims 25-34, 36-40 and 43-47 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0115771 (*Schueler et al*). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Independent claim 25 is directed to a thermoplastic composition comprising a mixture of a polyamide and/or polyester matrix with at least (i) a first additive of formula $R-Z_u$, and (ii) a second additive selected from the group consisting of an additive (A) and one additive (B).

Schueler et al relates to a molding composition which comprises components I, II and III. See paragraphs [0008] to [0019]. Component III is a copolymer which contains units of the following monomers: a) from 20 to 94.5% by weight of one or more α -olefins having from 2 to 12 carbon atoms, b) from 5 to 79.5% by weight of one or more acrylic compounds, selected from the group consisting of acrylic acid and methacrylic acid and salts thereof, esters of acrylic acid and/or of methacrylic acid with a C_1 - C_{12} alcohol, which may carry, where appropriate, a free hydroxyl or epoxide function, acrylonitrile and methacrylonitrile, acrylamides and methacrylamides, and c) from 0.5 to 50% by weight of an olefinically unsaturated epoxide, carboxylic anhydride, carboximide, oxazoline or oxazinone.

It is well established that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). For an anticipation to exist, "[t]he identical

invention must be shown in as complete detail as is contained in the . . . claim."

Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Schueler et al does not disclose each feature recited in independent claim 25, and as such fails to constitute an anticipation of such claim. For example, *Schueler et al* does not disclose a mixture of a polyamide and/or polyester matrix with at least a first additive of formula $R-Z_u$, in which R is a hydrocarbon radical optionally comprising one or more heteroatoms, and u is an integer greater than or equal to 1, as recited in claim 25. *Schueler et al* simply has no disclosure of a mixture of a polyamide and/or polyester matrix with **a first additive of formula $R-Z_u$** .

In this regard, the Patent Office has alleged that the monomer "b" of component III disclosed at paragraphs [0013] to [0017] of *Schueler et al* corresponds to the claimed first additive. See Official Action at page 4. It is important to note, however, that while the copolymer III of *Schueler et al* contains a monomer unit "b", such copolymer III also contains a monomer unit "a" and a monomer unit "c". See paragraphs [0011] to [0018]. That is, monomer units "a", "b" and "c" are all units of, and present in, the same copolymer compound. Thus, it is respectfully submitted that the appropriate comparison is not between monomer unit "b" alone and the claimed first additive, but rather between the copolymer III and the claimed first additive. Put differently, *Schueler et al* does not disclose the inclusion of the monomer unit "b" alone, i.e., apart from the monomer units "a" and "c", as an additive in its molding composition. Rather, *Schueler et al* discloses that the copolymer III which contains such monomer unit "b", is present in the molding composition. Clearly, the copolymer III is not the same as the claimed first additive of formula $R-Z_u$.

For at least the above reasons, it is apparent that *Schueler et al* fails to constitute an anticipation of independent claim 25. Accordingly, withdrawal of the above rejection is respectfully requested.

Claim 41 stands rejected under 35 U.S.C. §103(a) as being obvious over *Schueler et al*. Claim 35 stands rejected under 35 U.S.C. §103(a) as being obvious over *Schueler et al* in view of U.S. Patent No. 3,558,567 (*Twilley et al*). Claim 42 stands rejected under 35 U.S.C. §103(a) as being obvious over *Schueler et al* in view of Polymer, Vol. 42, Issue 5, March 2001, pp. 1931-1939 (*Hsieh et al*). Withdrawal of these rejections is respectfully requested for at least the following reasons.

The deficiencies of the primary applied document, *Schueler et al*, are discussed above. *Schueler et al* fails to disclose or suggest a mixture of a polyamide and/or polyester matrix with at least a first additive of formula $R-Z_u$, in which R is a hydrocarbon radical optionally comprising one or more heteroatoms, and u is an integer greater than or equal to 1, as recited in claim 25. It would not have been obvious to the ordinarily skilled artisan to modify *Schueler et al* by employing the monomer unit "b" apart from the other constituent parts of the copolymer III, as an additive in a mixture with a polyamide and/or polyester matrix.

The secondary applied documents (i.e., *Twilley et al* and *Hsieh et al*), fail to cure the above-described deficiencies of *Schueler et al*. In this regard, *Twilley et al* has been relied on for disclosing that benzylamine may be used as a chain terminator for polyamides. See Official Action at page 12. *Hsieh et al* has been relied on for disclosing the use of dendritic polymers in polymer blends as flow modifiers to reduce blend viscosity and processing aids. See Official Action at page

13. However, even if such secondary applied documents would have been combined with *Schueler et al* in the manner alleged by the Patent Office, the resulting combination fails to disclose or suggest a mixture of a polyamide and/or polyester matrix with at least a first additive of formula $R-Z_u$, in which R is a hydrocarbon radical optionally comprising one or more heteroatoms, and u is an integer greater than or equal to 1, as recited in claim 25.

For at least the above reasons, withdrawal of the §103(a) rejections based on *Schueler et al*, *Twilley et al* and *Hsieh et al* is respectfully requested.

Dependent claim 48 is further distinguishable from the applied documents. Such claim recites that u in the formula $R-Z_u$ is an integer greater than 1. The Patent Office has taken the position that, with respect to the monomer unit "b" of *Schueler et al*, "u is clearly a positive number greater than one given the amounts of monomer b present". Official Action at page 4. Applicants respectfully but strenuously disagree. *Schueler et al* discloses the optional use of "a free hydroxyl or epoxide function." Paragraph [0015]. There is no mention or suggestion of the presence of multiple free hydroxyl or epoxide functions in a single monomer unit "b". And contrary to the Patent Office's assertion, the disclosed amount of monomer unit "b" present in the copolymer does not necessitate the presence of multiple free hydroxyl or epoxide functions in each monomer unit "b". There is simply no disclosure or suggestion of the first additive of formula $R-Z_u$, in which u is an integer greater than or equal to 1, as recited in dependent claim 48.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If


there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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By:



Roger H. Lee
Registration No. 46317

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620